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*Corruption in Angola: An Impediment to Democracy*

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## **Acknowledgements**

The Reagan-Fascell Democracy Fellows Program at the International Forum for Democratic Studies, National Endowment for Democracy (NED), provided the respite for the writing of this paper in Washington, DC. I thank my research associate, Natalie Chang, for her kind assistance, copyediting and friendship. I am grateful to Sally Blair, Zerxes Spencer and Judith Welling for their comments on this work, and I would like to thank all staff of the Forum and NED, including Melissa Aten-Becnel, Geoff King, Jessica Ludwig and Ragan Updegraff, who provided wonderful support while I was in residence.

My colleague, Kwasi Prempeh, generously provided guidance on many constitutional and legal processes in Africa, which allowed me to contextualize the Angola case. I would also like to thank Professor Peter Lewis of John Hopkins University's School of Advanced International Studies (SAIS), who served as a discussant for the public presentation of this work in progress in May, 2011.

I leave a special note of gratitude to my friend Deborah Harding who, over the years, has been vital in introducing me to various U.S. audiences poised to benefit from this work.

## Introduction

On April 1, 2011, the National Assembly of Angola voted for a bill criminalizing the use of the Internet and mobile phones to send information, photographs, or text messages without the prior written consent of those mentioned in the contents.<sup>1</sup> The “Law to Combat Crime in the Area of Information and Communication Technologies and of Information Company Services” establishes a maximum penalty of twelve years in prison for such violations, while online child pornography is given a more lenient maximum sentence of two years.<sup>2</sup> To date, the proposed legislation is in a state of political limbo.<sup>3</sup>

Two weeks later, on April 19, 2011, the National Assembly established one million US dollars as the minimum threshold investment for any individual to qualify as a private investor and receive state incentives.<sup>4</sup> The rationale for the “Law on Private Investment” was that it would attract bigger foreign investments and enable Angolans to be more competitive with their foreign counterparts.

These two legal initiatives illustrate both the current state of democratization in the country and its political economy. Examining these laws is critical in addressing what has become the most defining issue in Angola, both in official discourse and for the society at-large: the untrammelled, high-level corruption in the country. Following the purging years of the Marxist-Leninist era and the continuous civil war (1975-2002), this paper argues that violence is no

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<sup>1</sup> *Jornal de Angola*, April 3, 2011.

<sup>2</sup> The National Assembly postponed the final approval of the proposed law, which had been scheduled for April 19, to accommodate complaints by civil society organizations and respond to public outcry. A subsequent memorandum by the Ministry of Telecommunications and Information Technology (MTTI) suggested the reduction of the sentence for Article 17 from two to eight years to three days to a year imprisonment. The MTTI also provided more specification on “terrorism” by including a vague category termed “acts of sabotage”. These proposed changes remain outrageous, for they maintain the vague criminalization of freedom of expression on the Internet. These articles of the law are further explained in the section on tightening the net.

<sup>3</sup> In similar circumstances, the authorities have circumvented public pressure by first wearing down critics, and then proceed with the insertion of the most provocative articles into other relevant legal diplomas. The new draft Penal Code has been identified as the recipient of the most controversial articles of the proposed internet law.

<sup>4</sup> Inácio, Adelina, 2011.

longer the key feature of governance in Angola: corruption is. At a time when citizens' demands for democratic reform, economic opportunity, and political accountability have led to upheaval in the Middle East and North Africa, both laws demonstrate the government's response to the fundamental question of how it plans to rule Angola within this period of regime change and democratic transformation.

This paper is divided into three sections. The first section discusses the consolidation of presidential power in Angola, demonstrating that the power of the executive has been historically strengthened through the use of constitutional and legal measures. This shows that Angolan law rarely serves as a check on power, but instead is used as a tool to enable an environment of high-level corruption and impunity.

The second section introduces the proposed "Law to Combat IT, Communications and Information Society Services' Crimes" as a case study illustrating the shrinking space of civil society and independent voices in Angola.

The third section addresses the role of the new "Law on Private Investment" in ensuring a presidential monopoly over the levers of Angolan economic power. This section will also present an overview of available legal mechanisms to combat corruption and provide a narrative of the country's current political economy and its *modus operandi* in the banking and oil sectors. The expansion of private banking ventures in the country necessitates close scrutiny, as high-ranking public officials who comprise the shareholding structures of these private banks increasingly use these ventures as venues for money laundering. On the other hand, oil is increasingly central to the nation's *realpolitik*. In 2010, Angola was the largest oil producer in Africa, with an estimated output of 1.9 million barrels a day. Crude oil represents more than 95% of the country's total exports.

In conclusion, the paper reflects on the current state of governance in Angola, and what it would take for Angolans to engage in a nation-building process anchored in the separation of powers and its attendant checks and balances, as well as public accountability.

## I. Consolidation of Presidential Powers: Constitutional and Legal Measures

### *The Concept of Democracy*

The concept of democracy that serves as the foundational premise in this paper is enshrined in the new Angolan Constitution, promulgated in February 2010. According to the Constitution, democracy rests on the sovereignty of the people, rule of law, separation of powers, freedom of expression and political organization, and representational and participatory [electoral] democracy (art. 2, 1).<sup>5</sup> In abiding by it, the state promotes and defends the fundamental rights and freedoms of its citizens and ensures that they are respected and enforced by the legislative, executive and judicial branches (art. 2, 2).<sup>6</sup>

The Angolan Constitution emerged neither from international pressure nor from opposition demands but rather from the will of the ruling Movement for the Popular Liberation of Angola (MPLA), which won the 2008 legislative elections by a landslide of 81.64 % of votes. With its absolute majority, the MPLA established a system that formalizes freedoms for the people, yet also concentrates powers in the hands of the President of the Republic, Mr. José Eduardo dos Santos.

### *The Consolidation Process*

The consolidation of presidential power has been facilitated by both constitutional reforms and stalled implementation of constitutionally guaranteed measures. Unlike the system under the 1992 Constitutional Law, parliament can no longer call the executive to account.<sup>7</sup> The “Government,” one of four Sovereign Bodies under the previous Constitutional Law (the others being the President, the National Assembly and the Courts), has been abolished along with the office of the Prime Minister. Under the new constitution, all powers of government are vested

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<sup>5</sup> Angolan Const., 2010.

<sup>6</sup> Ibid. The Angolan Constitution incorporates (art. 26), the Universal Declaration of Human Rights and the African Charter on the Human and People’s Rights as well as other relevant international legal mechanisms.

<sup>7</sup> On August 12 2010, the Speaker of the National Assembly issued an order (02177/03/GPAN/2010) suspending all monitoring activities of the parliament on the executive in accordance with the new constitution.

in the presidency. Effectively, therefore, the president has become the sole decision-maker over governmental matters. Although this has been the *de facto* practice since the Marxist-Leninist period, the previous Constitutional Law (1992-2010) at least preserved a formal role for the Council of Ministers. The Ministers who comprised this collegial body had the legal right to vote in decision-making processes.<sup>8</sup> Nevertheless, the President reserved the right to cast the deciding vote (art. 34, 5)<sup>9</sup> as head of government and had no constitutional obligation to respond to Parliament for his acts.<sup>10</sup>

Equally alarming is the loss of Angolan citizens' right to directly elect their president. This right was never fully exercised in 1992, as the second round of presidential elections between Mr. Dos Santos and Jonas Savimbi never took place. The right was fully ignored during the scheduled 2009 presidential elections, which were postponed. The government's justification for this deferment was that it could not afford to hold elections until after the passing of the new constitution.

In summary, Angola now has a unique form of government. From the presidential system, the present Angolan Constitution has borrowed the office of "President," along with the powers, prestige and prerogatives commonly associated with the office but without any of its generally imposed limitations or checks and balances. From the Westminster parliamentary system, it has borrowed the powers and prerogatives of the prime minister, without any of the limitations, political or constitutional, customarily imposed by the Westminster model on the office holder. The Angolan constitution has thus detached from the presidential and parliamentary systems the "heads" of those two systems, uniting their powers and prerogatives in a "President of the Republic," who is thereby empowered to govern without credible checks and balances. The result is a form of government that is neither presidential nor parliamentary; it is simply *sui generis*, and tailor-made to suit the regime's needs. In the Angolan case, however, the system is tailored most specifically to the needs of José Eduardo dos Santos.

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<sup>8</sup> Conselho de Ministros, 2003.

<sup>9</sup> *Ibid.*, 5.

<sup>10</sup> See Paulo, António, 2008.

Indeed, the Angolan President lacks the legitimacy of a popular electoral mandate – one of the salient features distinguishing the president in a presidential system from the prime minister in a parliamentary system. In the Angolan system, the President of the Republic is not selected by means of direct popular election. Rather, he is the person who heads the closed list of the political party that wins the legislative elections.<sup>11</sup> This system does not allow for the separation of powers, for it conflates the elective roles of two independent sovereign bodies: the Presidency and Parliament.<sup>12</sup> Jorge Miranda (2010) contends that, as such, the President is by design the head of the parliamentary majority, assuring total control of the National Assembly.<sup>13</sup> As a result, the political system neither conforms to the Parliamentary nor the Presidential models of governance, for it overrides the clear distinction between legislative and executive powers in the Constitution.<sup>14</sup> Mihaela Webba (2009) argues that the parliamentary mandate in Angola is not a representative mandate but an “imperative” one, in which MPLA Members of Parliament (MPs) must strictly abide by the party’s “rigorous discipline” and vote as instructed by their top leadership.<sup>15</sup> Because of the closed-list system of elections, MPs do not feel beholden to any constituency but instead rely exclusively on the party president who decides who is on or off the list, for re-election.

Many scholars have highlighted the dangers of this blended parliamentarian-presidential model. O. B. Nwabueze (1974) posits that “when the executive presidency is blended with features of the parliamentary system without adequate constitutional and other safeguards on the resultant power structure, the result might be dictatorship.”<sup>16</sup> He illustrates his argument with Ghana’s presidential constitution of 1960-66, which allowed Kwame Nkrumah to unleash

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<sup>11</sup> The Angolan Constitution establishes (art. 109) that “Is elected President of the Republic, and Head of the Executive, the head of the list, for the national circle, of the political party or coalition of political parties more voted in the general elections, held in accordance with art. 143, and the succeeding ones of the present Constitution” It specifies (ibid., 2) that “the head of the list is identified, for the voters, in the ballot.”

<sup>12</sup>The constitution establishes the Presidency and the National Assembly as separate and sovereign bodies, the third being the judicial (art. 105).

<sup>13</sup>Miranda, Jorge, 2010.

<sup>14</sup> Ibid.

<sup>15</sup> Webba, Mihaela, 2009.

<sup>16</sup> Nwabueze, O. B., 1974:92.

tyranny, desecrate people’s civil liberties<sup>17</sup> and become a model for other despots on the continent.

In order to present a less critical view of their blended parliamentarian-presidential model, the Angolan authorities arranged for a parade of renowned Portuguese constitutionalists and politicians to argue in defense of the new constitution. Neglecting to discuss any of the document’s serious shortcomings, the “experts” praised its legal stature<sup>18</sup> and argued that its respect for chieftainship made it best suited for the Angolan environment.<sup>19</sup> Angolan legal scholars who participated in the drafting of the constitution, however, were unable to justify to the public the “atypical” constitutional model they produced. It thus became clear that the regime needed the intervention of the Portuguese academics and foreign dignitaries to legitimize the constitution through the state-owned media propaganda apparatus, while critical local views were sidelined to internet circulation.

Government officials have continually defended its “atypical” constitutional model as a source of political stability, implying that Angolans must either accept it or again face political turmoil.

Since independence, Angola has operated under two extreme political realities. The first was the context of civil war from 1975 to 2002. While Angola’s first multiparty elections occurred in September 1992, they were a short-lived hope for peace and democracy, as civil war broke out one month later and led to ten more years of armed conflict. During this period, powers were continuously transferred to the president in the name of centralizing the war effort for victory. Of the six constitutional reforms that took place from 1975 to 1989, Angolan constitutionalist,

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<sup>17</sup> Ibid.

<sup>18</sup> Angop, March 15, 2010. Portuguese constitutionalist Marcelo Rebelo de Sousa’s praises the document as being rigorous and advanced in enshrining freedom, rights and protection for private business initiatives.

<sup>19</sup> *Televisão Pública de Angola (TPA.ao)*, February 1, 2010. Portuguese constitutionalist Jorge Bacelar Gouveia extols the Angolan constitution for incorporating of traditional values and forms of power “unknown in other parts of the world.” This argument is the same one used to justify the implementation of Marxism-Leninism in the country as the most adequate system in keeping with the country’s traditional values. Meanwhile the regime has never respected the basic tenet of traditional authority, which historically has, in general, rested on collegial decision-making councils.

António Paulo (2008), finds that all of them had the same outcome: greater concentration of powers in the president's office, maintenance of the party-state, protection of the Soviet model in the state apparatus, and centralization of the economy.<sup>20</sup> These revisions also enabled the president to purge any intra-party dissent stemming from collegial decision-making processes, by claiming sole authority.<sup>21</sup>

Thus, since 2002, the democratization process in Angola has been severely lopsided by the existence of token political opposition and an extremely weak civil society. Political stability has become the key justification, as expressed in the judgment of the Constitutional Court, for the absolute concentration of powers in the office of the President to the same effective levels of 1980-92.<sup>22</sup> During this period, Mr. Dos Santos also presided over the legislative branch as speaker of the People's Assembly (the predecessor to the current National Assembly). Moreover, he ruled the judiciary through the "Unified System of Justice," which he still does. Although some judicial reforms are underway, the Office of the Attorney-General of the Republic remains under the purview of the President, through a law that survives from the Marxist-Leninist era. Under this legal expedient (art. 5, 2), the President gives "direct instructions to the Attorney-General, which must be complied with."<sup>23</sup> As such, by law, no case against the government or public official can be investigated without the President's approval. He can terminate any legal investigation at any time, simply by instructing the Attorney-General to do so. Ironically, Mr. Dos Santos' instructions to the Attorney General's office are thus clearly defined as law.

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<sup>20</sup> Paulo, António, 2008:19.

<sup>21</sup> After the May 27, 1977 massacres in which President Neto's faction executed part of MPLA politburo, the army's top brass and tens of thousands of citizens, a new constitutional law granted him powers, for the first time, to solely appoint the prime-minister and members of government. The appointment initially rested on a collegial decision-making process of the Council of the Revolution. In 1979, the position of prime minister was abolished to broaden the presidential powers, and eliminate challenges to his authority.

<sup>22</sup> Tribunal Constitucional, 2010:18.

<sup>23</sup> Assembleia do Povo, 1990. In 2006, the National Assembly passed amendments to the law (Lei n.º8/06) on the powers of the Attorney-General, although maintaining a number of articles intact, as in the case of the legislation's role "to safeguard the socialist legal system" (art. 1), as well as on the president's powers to be above the law, and instruct the Attorney-General at will (art. 5, 2).

## ***The Consequences***

The MPLA has been in power for 36 years, while Mr. José Eduardo dos Santos has been in office for 32 years, making him the second longest-serving ruler in Africa after Teodor Obiang of Equatorial Guinea. He remains president without a popular mandate, as he has not been sworn in since 1979. Alask Orre (2010) views the political rationale behind the constitution in terms of the personal rule of Dos Santos vis-à-vis the collective interests of the ruling MPLA, and suggests that they are mutually supportive of each other.<sup>24</sup> Such observations can be misleading, however, for the interactions between Dos Santos and the ruling MPLA are rather unequal. The Constitution and the legal system serve as far-reaching mechanisms of control that protect the president's own interests. Legal provisions are wielded as rational political tools to select and discriminate, and laws are often used effectively to blackmail insiders who might feel rich or powerful enough to challenge the *status quo* of the president. In 2007, the former head of the intelligence services, General Fernando Garcia Miala, fell under the hammer of an obscure legal arrangement that convicted him to four years in prison for disobeying illegal orders to be stripped off his three-star general's rank in a public military parade.<sup>25</sup> He had also been jailed and accused of misappropriating US \$30,000 worth of listening devices consisting of seven mobile phones and four digital recorders.<sup>26</sup>

Demoted to Lieutenant-General, the former spymaster spent two years in jail and, by the end of 2009, had his sentence commuted by the "merciful" president.<sup>27</sup> The origin of the fallout with the president, as suggested by insiders, was the general's adverse comments concerning large-scale corruption by the president's inner circle regarding multi-billion dollar loans from China. To respond to these allegations, the Ministry of Finance was forced to issue a statement denying "any possibility for the misappropriation or misuse of the loans."<sup>28</sup>

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<sup>24</sup> Orre, Alask, 2010:12.

<sup>25</sup> Angop, September 20, 2007.

<sup>26</sup> Ibid.

<sup>27</sup> *Radioecclesia.org*, October 12, 2009.

<sup>28</sup> Ministério das Finanças, 2007.

Over the years, the concentration of powers in the Angolan presidency has enabled the impunity of public officials involved in outright plundering of state assets and coffers. Numerous cases never reached the courts due to presidential intervention and high levels of corruption in the judiciary. In 2009, the President of the Republic was informed of the conflation of public duties and private interests by the current Attorney-General.<sup>29</sup> The letter clearly documented evidence that General João Maria de Sousa, while on duty, was a qualified and at times majority shareholder and managing director of private enterprises providing services to the Attorney-General's office or other public institutions. The President, who recurrently complains of lack of evidence to tackle high level corruption, replied with silence.

There are more recent examples of such impunity, though. Last March, a local monthly business magazine, *Exame*, published a nine-page profile of *Casinos de Angola*, a company that holds the monopoly on gambling in the country.<sup>30</sup> The story openly promoted the image of its main shareholder, Minister of War Veterans, General Kundi Paihama, as the kingpin of gambling in the country. It detailed the company's plans to invest US \$ 57 million in new casinos over the next three years.<sup>31</sup> The president has ignored the obvious improbity of the General's acts, and never questioning how and where his minister, a lifelong public servant, acquired the fortune for such an enterprise.<sup>32</sup> There is no short supply of high-profile abuses and robberies that go unpunished due to presidential intervention or inaction. The lack of public awareness of such cases reveals both the extent to which the President will use his absolute powers and to what end. In spite of all the powers granted by the constitution, the President has also flagrantly trampled on the Constitution when necessary to circumvent any challenges. As a case in point, in 1999, an internal rift emerged between the president and then Prime-Minister França Van-

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<sup>29</sup> Marques de Morais, Rafael, 2009.

<sup>30</sup> The magazine is part of the media conglomerate MediaNova, owned by president Dos Santos' favorite trio of officials, namely Manuel Vicente and generals Manuel Hélder Vieira Dias "Kopelipa" and Leopoldino Fragoso do Nascimento, who are respectively CEO of Sonangol, minister of State and head of the President's Military Bureau, and top adviser to the latter.

<sup>31</sup> Fidalgo, Jaime, 2011:21-5.

<sup>32</sup> The Law on Administrative Probity forbids public officials from personally benefiting from or being engaged in gambling activities (art. 25, 1, e).

Dúnem over the 1992 constitutional reform that reinstated the post of Prime Minister, and bestowed it with certain executive powers to coordinate governmental activities. As a result of this rift, França Van-Dúnem, who was also a member of MPLA's politburo, resigned and, for three years, the president usurped the constitutional duties of the Prime-Minister.<sup>33</sup>

In another example, President Dos Santos found the constraints of the two-term constitutional mandate established in 1992 bothersome for his plans to remain in office. He did not choose the much maligned African route of seeking constitutional amendments for a third term. Instead, he sought recourse with the Supreme Court which, on July 22, 2005, formally annulled his presidential terms (1992-2007) on the grounds that he had no popular mandate and was therefore entitled to run again.<sup>34</sup>

Migai Akech (2011) contends that the failure of democracy in many parts of the African continent results from the abuse of legal systems granting presidents broad discretionary powers, in statutory laws and regulations, while lacking proper institutional checks and balances to limit such powers.<sup>35</sup> This view reflects, to a certain extent, the current constitutional formulation of presidential powers in Angola. The constitution, when read in conjunction with the statutes of the ruling MPLA, which Dos Santos also presides over, illustrates the President's pursuit of absolute power by legal means. The MPLA's statutes (art. 65, 1) grant the President the power to "rule, coordinate and ensure the political orientation of the party, the harmonious functioning of its bodies, and represent it before the public institutions, other political parties and organizations, as well as internationally."<sup>36</sup> The statutes (art. 66, 1, e, g, j) confer powers on the President to choose the party's vice president, secretary-general, and the politburo members, in addition to those whose have automatic

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<sup>33</sup> Paulo, António 2008:135-6. He presents a detailed argument of the incident which led the president to commit a stream of unconstitutional acts, including the formation of a new government, promulgation of decrees and law-decrees which required the signature of the prime-minister as well.

<sup>34</sup> Tribunal Supremo, 2005.

<sup>35</sup> Akech, Migai, 2011:96.

<sup>36</sup> MPLA, 2010.

access to the politburo due to their leadership positions.<sup>37</sup> Even the contracts for the daily operations of the party must be authorized by the president (art. 70, 1, d.).<sup>38</sup>

Akech's assertion is an important stride towards centering the African political analysis on the set of formal powers.<sup>39</sup> This approach seeks to inform citizens about the set of reforms needed to enable their participation in the political process and to hold leaders accountable by way of the legal system. Yet, Akech's proposition does not address the fundamental question of legitimacy. How do regimes manipulate democratic processes to gain legitimacy? The Angolan constitution is a result of such manipulation, for it was solely passed by MPLA, which gained legitimacy from high electoral turnout, and the positive assessment by the international community in spite of the blatant subversion of basic electoral procedures.<sup>40</sup>

According to Miranda (2010), the Angolan Constitution is equivalent to the systems that reestablished the French Caesarian monarchy of Bonaparte; the constitutional reform of 1933 that promulgated the fascist and corporative republic of Salazar, in Portugal; the military junta in Brazil, which emerged from the 1967-6 Constitution; and African despotic regimes.<sup>41</sup>

In Africa, the Angolan Constitution finds itself ranking among the typical first generation, single-party nationalist African Constitutions that Nkrumah spearheaded, though it is stripped of any ideological or nationalist rhetoric. As emphasized earlier, the closest comparative analysis must be drawn from the constitutional powers Dos Santos commanded in the 80's, when he was simultaneously, among other titles, President, Commander-in-Chief, head of government and the MPLA, and Speaker of the People's Assembly. Nowadays, the president also wears a civil society hat, as chairman of the Eduardo dos Santos Foundation (FESA), whose philanthropic work is funded by the state, leading public enterprises and foreign multinationals that enjoy privileged and contractual relationships with his government.

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<sup>37</sup> Ibid.

<sup>38</sup> Ibid.,

<sup>39</sup> Akech, Migai, 2011:97.

<sup>40</sup> Marques de Morais, 2008.

<sup>41</sup> Miranda, Jorge, 2010.

The following section analyzes how the Angolan legal system is used to repress citizens' agency to voice their concerns. With two recent legal initiatives, the regime has attempted to exercise tight control over the last frontiers of its competition, the internet and small businesses, which have presented the public with alternative choices to the prevailing system. This method is typical of authoritarian regimes, which strive to eliminate competition so that its survival may happen by default, as initially suggested by Tony Hodges (2001).<sup>42</sup>

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<sup>42</sup> Hodges, Tony, 2001:53.

## II. Tightening the Net: Available Space for Angolan Civil Society

As the Angolan state apparatus includes no effective mechanism for challenging the executive, it is often thought that civil society or the private market must take up this role. These are the last frontiers for independent voices and for business opportunities autonomous of the state. This section will assess the impact of the proposed “Law to Combat Crime in the Area of Information and Communication Technologies and of Information Company Services” on press freedom, freedom of expression and civil society in general.

Four of the seventy-seven articles of the draft law raise immediate concerns. One article prohibits the online posting or sharing of photos, recordings or videos without the consent of those appearing in the content. Its accompanying jail sentence is two to eight years.<sup>43</sup> This law, which exempts the state media and all other state institutions from penalty, essentially makes blogging, Facebook postings and participating in online media a criminal activity for any person not working to serve the official functions of the state. Another article penalizes anyone who sends or forwards a message (email, text, tweet, etc.) with the intent to “disturb the peace and tranquillity or the personal, family or sexual life of another person” (art. 18).<sup>44</sup> Yet another article broadens the concept of terrorism to encompass any “intent of changing or subverting the functioning of state institutions, to force the authorities to undertake certain actions, to abstain from carrying out such acts (...)” The sending of messages, news or posts that fall into this vaguely-defined category carry a sentence of twelve to sixteen years in jail (art. 24).<sup>45</sup> A fourth article of the proposed law confers discretionary powers on the military, police and state security apparatus to search homes without warrants and seize data and related equipment, including computers, hard drives, cellphones, CDs, DVDs, USB memory sticks, etc (art. 75, 1).<sup>46</sup>

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<sup>43</sup> Assembleia Nacional, 2011.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

The initial draft law submitted by the Ministry of Telecommunications and Information Technologies (MTTI), to the Presidency of the Republic in 2010, did not include any one of the abovementioned articles. It was the President, in his capacity as the executive who submitted the draft law to the National Assembly, who inserted these provisions.<sup>47</sup>

These recent additions, as some local analysts suggest, were responses to the popular uprisings in North Africa that toppled longstanding authoritarian leaders in Tunisia and Egypt.<sup>48</sup> In these countries, social media helped to overrun the propaganda apparatuses of their regimes.

Yet, while social media has played a key factor in the Arab Spring, what is the role of social media in Angola, where internet users represent only 3.1% of the total 18 million people? To answer this question appropriately, there is a need to look back at the short history of independent media in the country. From 1994-1995, a news bulletin, *Imparcial Fax*, haunted the government with its exposés on the military, abuses of power, and general malfeasance of public officials. Though it circulated via fax five times a week to subscribers only, *Imparcial Fax* became the stuff of legend, and it reproduced like a virus. Its director, Ricardo Mello, was shot dead in January 1995. Since his death, no journalist has been able to replicate his success in enabling access to critical information and striking fear in the political establishment.<sup>49</sup>

In 1996, a year after the tragic assassination of Ricardo Mello, the authorities had another political nightmare. A German Catholic priest, Father Konrad Liebscher, began to produce and distribute pamphlets in Luanda calling on people to peacefully demonstrate against substandard living conditions and demand greater freedom of expression.<sup>50</sup> He was arrested

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<sup>47</sup> For public consultation MTTI had posted online its draft of the proposed law. It is the president who bears the sole constitutional responsibility to approve the executive's draft laws for submittal to the National Assembly. See the constitution on the presidential power to discharge legislative initiative (art 120, i); on the Council of Ministers as an auxiliary body of the president (art. 134, 1) and on the advisory role of this body regarding the president's submittal of draft laws to the National Assembly (ibid., b) as well as on the legislative acts of the president (ibid., c).

<sup>48</sup> At the time of the public release of this paper, the 40-year rule of Colonel Gaddafi in Libya had also come to an end, but through armed rebellion.

<sup>49</sup> International Freedom of Expression Exchange, January 19, 1995.

<sup>50</sup> Amnesty International, 1997.

and convicted for crimes against state security. After a month, however, the authorities released the priest due to international pressure.

The independent media that sprang up after 1995 has been stifled in another way. In 2010, state security proxy companies completed hostile takeovers of the two leading independent weekly newspapers in the country, *Semanário Angolense* and *A Capital*, which were publishing increasingly embarrassing stories on the authorities, particularly on corruption. Yet these newspapers combined barely sold an average 12,000 copies a week in a capital of more than five million people.<sup>51</sup>

Despite the low circulation of such independent publications, since the colonial period Angolans have traditionally used word of mouth to relay news and circumvent censorship. The same system has also been used, since the colonial period, to stoke perpetual fear. The commentary added by each person along the way frequently establishes political narratives that are far more difficult to control or anticipate when the tide of public sentiment turns against the rulers.

The current power structure in Angola can only be tolerated by the public through the maintenance of a strict policy of “see no evil, hear no evil and speak no evil.” Hence, the internet has become a virtual space in which the President and his government are unable to manipulate or silence public opinion. On April 15, 2011, during a speech at a conference of the MPLA Central Committee, Mr. Dos Santos offered a veritable justification for his regime’s measures to curb free speech on the internet:

“In the so-called social media, which are organized via the internet and other media outlets, there has been talk of a revolution, but no conversation concerning democratic changes through the ballot. To those people, revolution means bringing people together and staging demonstrations, even those not authorized, to insult, denigrate, and cause disturbances as well as sowing confusion with the aim of forcing the police to act, so

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<sup>51</sup>See author’s article on media and corruption in Angola (Marques de Morais, 2011).

they can claim that there is no freedom of expression and respect for rights. This is the way of provocation people are choosing to overthrow elected governments that are duly abiding by their mandates.”

While trumpeting alarmist views over social media’s impact on democratic order, the President has accelerated the transfer of control over the state mobile phone and internet operator into the private hands of his cronies. In 2010, the President, as head of the executive, formally transferred 80% of the shares of the state mobile phone operator Movitel to phony companies belonging to his cronies. This company, independently valued at two billion dollars, was listed at a nominal price of US \$200 million, and to this date there is no public record of this sum, or a token fraction of it, ever being paid to the state.<sup>52</sup> Two critical elements in the submission of the law on the internet benefited from the deal. First, the Minister of Telecommunications and Information Technology, his deputy, Aristides Safeca, and their spouses received 6% of the shares.<sup>53</sup> The Presidential decision also awarded 5% of the shares to Novatel, a company fronted by the consort of the Speaker of the National Assembly, Marília C. S. Kissuá, and the Speaker’s deputy chief of staff. As expected, the President’s inner circle kept the lion’s share of the privatization, as 59% went to two phony companies, Portmill Investimentos and Modus Comunicare. These companies are fronted by the President’s top security detail officers: Lieutenant-Colonel Leonardo Lidiniken (99.96%) and Lieutenant-Colonel Tadeu Agostinho dos Santos Hikatala (99.92%).<sup>54</sup>

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<sup>52</sup> The financial settlement on privatized companies is, by rule, disclosed in the Daily Gazette.

<sup>53</sup> Relevant documents in possession of the author.

<sup>54</sup> Ibid. See the web of corruption in the presidency (Marques de Morais, 2010).

#### **IV. The Market and the Private Investment Law: Banking, Oiling, and**

##### ***Corruption***

The financial system, which in Angola predominantly consists of the banking sector, is extremely dependent upon corruption in the oil industry. In fact, a number of Angolan banks were first established with Sonangol (the national state oil company) as a main shareholder, to facilitate illicit transfer of oil proceeds to government officials in the form of shares, as further illustrated with the case of Banco Africano de Investimentos (BAI). Furthermore, the financial system structure enables those in power to methodically decide the extent to which the private sector can grow, and to select who may participate.

The new “Private Investment Law” is yet another tool that permits financial patronage to thrive in Angola. Those investors with the ability to invest one million dollars as an entry point can benefit from state incentives (art. 3).<sup>55</sup> Although establishing this type of threshold for private investment is common practice in several countries, the new law further prevents individuals from succeeding in the formal private sector independently of the state. The application of the “Private Investment Law” as it stands is at the discretion of the President. According to the law, he can waive, overrule, or reverse decisions and exercise unlimited powers regarding the fate of any investment falling under this or any other similar law (art. 93, 2).<sup>56</sup>

These powers make the President the undisputed enabler of conflation among public and private interests, for he personally authorizes all relevant business ventures involving his family and public officials. Most conflations entail the transfer of state resources for illicit enrichment and patronage, while private big businesses become an undistinguishable part of the state apparatus, as foreign investors must establish joint ventures with the President’s family and other public officials to ensure the success of their investments in Angola.

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<sup>55</sup> Assembleia Nacional, 2011.

<sup>56</sup> Ibid.

On behalf of the executive, the Minister of Finance, Carlos Lopes, justified the new “Private Investment Law” by arguing that the country needed more qualified investors and foreign investments to generate a lot of jobs.<sup>57</sup> The minister also stated that investments below one million dollars, largely from small and medium sized companies, would have to rely on other legislation and state mechanisms to help them. Outside of the government sector, however, the vast majority of jobs in Angola are created by small and medium sized businesses.

The following statistics challenge the Minister’s premise that Angola’s greatest need is additional economic growth and demonstrate that Angola has achieved remarkable macroeconomic progress and economic favor among other countries:

- Angola’s GDP jumped from US \$10.7 billion in 2002 (the year the war ended), to US \$86.3 billion in 2010, and it is projected to reach US \$98.5 billion in 2011, mostly due to the increase in oil output and high prices.<sup>58</sup>
- Angola has been rated as one of the fastest growing economies in the world, with an average real GDP growth of 14.2% in the period of 2005-09.<sup>59</sup>
- Since 2003, China has disbursed over US \$15 billion in oil-backed loans to Angola, and both countries signed a strategic partnership agreement in 2010.<sup>60</sup>
- In 2009, Angola received the largest IMF loan (US \$1.4 billion) to a sub-Saharan African country during the global economic crisis, to support national reserves and encourage economic reforms. <sup>61</sup>
- State authorities revealed that, in 2010, over US \$4 billion were invested in the country’s non-oil sector. According to the authorities, Angolan

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<sup>57</sup> Ibid.

<sup>58</sup> International Monetary Fund, 2010:18.

<sup>59</sup> The Economist Intelligence Unit, 2010:4.

<sup>60</sup> Commarmond, Cécile de, March 6, 2011.

<sup>61</sup> International Monetary Fund, November 23, 2009.

private businesses surpassed their foreign counterparts, in that same year, by accounting for more than 50% of the total amount of capital invested.<sup>62</sup>

Economic progress has been unequal, however, as it has not benefitted the vast majority of citizens:

- The extreme level of centralization in resource distribution is reflected in the 2011 budget. Dos Santos' executive apparatus absorbs 86.28% of the State Budget, while the provincial and municipal administration for the capital, Luanda, takes 2.48%. Only 11.24% is left for the rest of the country and the other seventeen provinces.<sup>63</sup>
- Most Angolans, in spite of the country's oil riches, remain among the poorest in the world. The average gross national per capita income is US \$4,941 a year, while more than half of the population (54.3%) lives below the poverty line, on US \$1.25 a day.<sup>64</sup>
- It is estimated that at least 65% of the active urban population engages in informal economic activities in order to survive, and 30% or less have formal jobs.<sup>65</sup>
- According to a financial study presented to the Central Bank (Banco Nacional de Angola), "most banks limit their lending to a select group of customers whom they know and trust, and most businesses and households continue to lack access to financing for investment."<sup>66</sup> The study points to widespread corruption, a high cost of business registration, double-digit inflation, poor infrastructure and lack of investment beyond the oil and mineral sectors as other factors undermining competitiveness in the economy.<sup>67</sup> The document highlights the findings of a recent survey, commissioned for

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<sup>62</sup> Dias, João, February 18, 2011.

<sup>63</sup> Ministério das Finanças, 2011.

<sup>64</sup> United Nations Development Program, 2010:145, 162.

<sup>65</sup> Walther, Richard and Ewa Filipiak, 2007:38.

<sup>66</sup> The Services Group, Inc. and Nathan Associates, 2008:3. For a better understanding of the selective processes and trust procedures the private banks develop with their clientele, Annex 1 provides an illustrative case on the shareholding structure of the private bank Keve. Public officials who control the shares determine the kind of clientele the bank conducts business with.

<sup>67</sup> Ibid.

the Central Bank and UNDP, which shows that “only 0.4% of micro, small and medium enterprises (MSMEs) have obtained bank credit.”<sup>68</sup>

These paradoxes provide a solid basis for public scrutiny when combined with the regular state actions that deeply affect the poor. These actions include the mass-evictions of thousands of poor dwellers for private real estate development by privileged members of the regime, usually without compensation; regular and violent police crackdowns on street vendors to seize their goods, without the offering of alternative modes of survival; and the larger-than-life extravagant lifestyles of corrupt public officials and their families. These examples demonstrate that the monopolization of information and the market are two sides of the same coin. One cannot succeed without the other.

Why, with such a stranglehold on power, does President Dos Santos’ executive need to resort to such extreme measures in order to feel safe? The answer is corruption. As explained earlier, the regime relies on corruption to maintain power, but simultaneously corruption serves as a potential justification for the toppling of the regime. As a result, those at the top remain locked in a vicious cycle of corruption to protect themselves and maintain their positions of power.

### ***Anti-Corruption Laws***

Why is corruption such a threatening topic for Angolan officials? Though the current constitution includes a blanket amnesty for war crimes and other violent crimes during the conflict, this relief does not apply to economic crimes.<sup>69</sup> The legislation on corruption is as transparent as the acts committed by government officials, and it can send corrupt officials to jail. Additionally, the West is currently less willing than in the past to provide safe haven to disgraced rulers or their ill-gotten gains. For all of these reasons, Angolan incumbents are jittery about corruption claims.

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<sup>68</sup> Ibid., 2008:6.

<sup>69</sup> See Angolan Const., art. 244.

In 1990, several laws were enacted to stem corruption, following a report commissioned by President Dos Santos. These included rules governing the acceptance of gifts and other official perks by government officials.<sup>70</sup> Prior to this, in 1989, the People's Assembly passed three comprehensive laws. "The Law on Crimes against the Economy" defined "passive" and "active" corruption in very restrictive terms, whereas "The Law on the Crimes Committed by Public Office Bearers," which prohibited public officials from engaging in private business activities while on duty, defined abuse of power. "The Law on Economic Crimes" was later amended in 2003 by deleting the definitions of "passive" and "active" corruption entirely. Although there is a dearth of records on the use of these laws in court, the heightened discussion on top-level corruption led to the enactment, in 1996, of the "Law on High Authority against Corruption."<sup>71</sup> To date, however, this law has not been implemented.

To harmonize the abovementioned legislation, the National Assembly in 2010 passed the "Law on Administrative Probity" to tackle corruption at all levels of the public sector, including among Members of Parliament, magistrates, and private contractors working for the government. This law extends as well to executives of state-owned companies or companies in joint-ventures with the state (art. 15, 2, i). (Ironically, though, the word "corruption" does not appear once among its forty-five articles.) In general, the Law on Administrative Probity prohibits:

- Any public servant from receiving gifts, either directly or indirectly, from Angolan and foreign entities (art. 18).<sup>72</sup>
- Any public servant from receiving money, assets or other economic benefits, such as a commission, a percentage or gratification in a business deal in which, directly or indirectly, he or she may have decision powers or influence (art. 25, 1, a).<sup>73</sup>

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<sup>70</sup> There were the Law on Public Sector Discipline (Law 22/90), the Statutory Law on the Remuneration of Members of Government (Law 23/90), Decree on the Patrimonial Benefits of Senior Public Officials (Law 24/90), and Decree on Small Gifts to Members of Government (25/90).

<sup>71</sup> Assembleia Nacional, 1996.

<sup>72</sup> Assembleia Nacional, 2010.

- The purchase, during the discharge of his or her public duties, of assets disproportionate to official earnings, and its patrimonial applications (ibid., g).<sup>74</sup>
- Any public servant from pursuing another job or consulting arrangements that might be a source of conflict of interest (ibid., h).<sup>75</sup>

Private enterprises are clearly prohibited from engaging in private business ventures with state agents in several laws, such as the Angolan Penal Code (Arts. 318-322), which does define acts of passive and active corruption of public servants and magistrates. Angola has also incorporated international conventions into its domestic law to strengthen its legal framework in combating corruption. These include the Southern Africa Development Community's (SADC) "Protocol against Corruption," the African Union's "Convention on Preventing and Combating Corruption," and the United Nations' "Convention against Corruption." In addition, "the Law on Private Investment" encourages private investors, regardless of their nationality, to denounce irregularities, corruption and other illegal acts that might affect their business interests, even before their submission for approval by the state.<sup>76</sup> In spite of these incorporated legal mechanisms, corruption is an open and straightforward business in Angola.

## ***Banking***

### **Banco de Desenvolvimento de Angola (BDA)**

The main state mechanism assisting small- and medium-sized companies is the Angolan Development Bank (BDA). The authorities established the BDA in 2006 as the sole manager of the National Development Fund, which is endowed annually with 5% of the government's fiscal revenue from the oil industry, and 2% from the diamond industry (Lei n.º 9/06, art. 6, a, b).<sup>77</sup> While the concept is admirable, BDA has received significant criticism from international

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<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid.

<sup>76</sup> Ibid.

<sup>77</sup> Assembleia Nacional, 2006.

institutions for enabling corruption. As noted in a World Bank report, the BDA “provides subsidized lending to the private sector without collateral or an adequate equity state.”<sup>78</sup> It also pointed out that BDA would not help the development of the private sector unless the business environment in Angola changed, warning it would “promote inefficiency and moral hazard and [be] prone to governance problems, including elite capture of subsidized capital and the emergence of nonperforming loans.”<sup>79</sup>

A similar government banking experiment collapsed in 2000, after *Caixa Agro-Pecuária* (CAP) disbursed hundreds of millions of dollars to state officials affiliated with private business enterprises. In a remarkable attempt to name and shame some of the culprits and ward off responsibility, the bank’s management published a list of some of the debtors in a two-page spread in the state-owned daily, *Jornal de Angola*.<sup>80</sup> Those listed include current ministers, governors, top magistrates and generals. Nevertheless, a political decision later overrode the official announcement that debtors would be prosecuted.

In tracing the lending patterns of the BDA, one finds that its behavior does not differ from its predecessors, such as CAP. For instance, while he was governor of the southern Huambo province, the current speaker of the National Assembly, Paulo Kassoma, used a loan from the BDA to build a mineral water bottling plant (Puríssima Água do Lépi) in the same province, through his company CIJ Construção e Mineração.<sup>81</sup> Following numerous other examples, on September 2009, opposition parties represented at the National Assembly denounced BDA as an institution at the exclusive service of the ruling MPLA, referring to it as a credit ATM for members of this party.<sup>82</sup>

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<sup>78</sup> World Bank, 2006:8.

<sup>79</sup> Ibid.

<sup>80</sup> See CAP’s advertised list of debtors (in *Jornal de Angola*, September 22, 2000):6, 7.

<sup>81</sup> Angop 2010. Further online research points to another US \$10 million investment to the project made by the African Development Bank (Angop, July 27, 2010).

<sup>82</sup> Filipe, David, 2009:08. In the same article, one opposition parliamentarian sarcastically commented that “The day will come when there will be a demand for MPLA party membership card for us to have the right to the air we breathe.”

### **Banco Nacional de Angola (BNA)**

The National Bank of Angola (BNA) is the sole banker of the state and serves to oversee the activities of all financial institutions in the country (Lei n.º 16/10, art. 16, 1, and art. 20, a).<sup>83</sup> After Sonangol, BNA is a leading vehicle of state corruption.

The Office of the Attorney-General of the Republic acknowledged last year that over US \$160 million had been looted through wire transfers from BNA.<sup>84</sup> Nonetheless, the investigations have only led to the arrest of forty-nine unassuming people, including cleaners, drivers, archivists, porters, and some unemployed citizens,<sup>85</sup> despite the Attorney-General's description of the crime as the work of masters.<sup>86</sup> Meanwhile, rather than holding the governor of BNA accountable, the President appointed Abraão Gourgel as the Minister of Economy.

In 2002, according to a U.S. Senate Report, then governor of BNA, Aguinaldo Jaime, transferred a total of US \$100 million of government funds to a private account in the United States, with US \$50 million used to purchase U.S. Treasury Bills as a private investment.<sup>87</sup> The report states that transfers were reversed afterwards by U.S. institutions, and the Angolan government was informed of the operations.<sup>88</sup> Rather than being punished, however, Aguinaldo Jaime received a presidential promotion one month later to become deputy prime-minister. Since November 2008, Mr. Jaime has headed the National Agency for Private Investment.

On December 10, 2009, the author reported that Lieutenant-Colonel Leonardo Lidiniken, the deputy-head of the presidential security detail, had engaged in a large private financial transaction. His phony company, Portmill, Investimentos e Telecomunicações, in which he holds 99.96% of the shares, paid US \$375 million for a 24% share in the Banco Espírito Santo Angola (BESA).<sup>89</sup> This transfer raised numerous questions, such as, “where did the humble professional

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<sup>83</sup> Assembleia Nacional.

<sup>84</sup> Dias, Valdimiro, 2011.

<sup>85</sup> Radioecclésia.org, June 16, 2010.

<sup>86</sup> Angop, February, 17, 2010.

<sup>87</sup> U.S. Senate, 2010:270-1.

<sup>88</sup> Ibid.

<sup>89</sup> Banco Espírito Santo, 2009.

soldier find such a large sum of money?” When the bank refused to respond to the questions regarding the ownership of the company and sources of the funding involved, the author charged that the Portuguese Banco Espírito Santo, which made the sale and still holds 51.94% of the capital of its Angolan branch, engaged in a money laundering scheme. This allegation, however, provoked no response from the bank.

The sole possible explanation for Lt. Col. Lidinikeni’s sudden fortune may lie in the previous ownership of the company. Portmill was incorporated in 2007 by the Minister of State and Head of the Presidential Military Bureau,<sup>90</sup> General Manuel Hélder Vieira Dias Kopelipa, his top adviser, General Leopoldino Fragoso do Nascimento, and the chairman and CEO of Sonangol, Manuel Vicente. They transferred the company’s ownership to Lt. Col. Lidinikeni exactly six months before this important financial transaction. Apart from receiving 40% of the shares of state mobile phone operator Movitel in August 2009, Portmill was formally registered but had no business activity. The Council of Ministers, in which President Dos Santos has sole decision-making power, authorized the privatization scheme.<sup>91</sup> In August 2010, the ruling MPLA called for an investigation on my exposé; however, the President’s office addressed the case with silence.<sup>92</sup>

The President’s firstborn child, Isabel dos Santos, is also engaged in a web of companies and corrupt dealings. She is an executive manager of the two leading rival private banks in the country, both of which have Portuguese investors at the helm. At Banco de Fomento de Angola (BFA) Ms. Dos Santos is vice-chair of the Executive Board,<sup>93</sup> while at Banco BIC she is a member of the Board of Directors.<sup>94</sup> “The Law on the Credit Institutions and Financial Services” prohibits executive board members of credit institutions from holding positions or discharging any other

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<sup>90</sup> It is also an equivalent of the National Security Council. It oversees the whole country’s defense and security services.

<sup>91</sup> Conselho de Ministros, 2009.

<sup>92</sup> In an exclusive interview to the Portuguese news agency Lusa (August 8, 2010), MPLA politburo member and spokesperson Rui Falcão Pinto de Andrade called on the relevant state bodies to investigate the author’s exposé on the use of the presidency as a hub for high-level corruption.

<sup>93</sup> Banco de Fomento de Angola, 2009:5.

<sup>94</sup> Banco BIC, 2009:10.

duties in other similar institutions (Art. 26, 1). However, the law has a significant caveat, for the Central Bank has discretion to authorize such a conflict of interest (Art. 26, 3). Since the head of the Central Bank is appointed by and answers directly to the president, abuse of power and influence peddling are widely condoned.

The first lady, Ana Paula dos Santos, has also conflated her public duties with her position as executive board member of another private banking institution, Banco Sol, in which she directly holds 5.6% of the capital.<sup>95</sup> In her business dealings and on behalf of the bank, the first lady has not shied away from formally using the office of the President of the Republic as her personal address and her husband's title for private business.<sup>96</sup> Furthermore, the ruling MPLA business holding, GEFI, through its proxy company, Sansul, fronts for another set of 10% shares that the first lady holds in the bank, through her private foundation, Lwini.<sup>97</sup>

Moreover, members of the National Assembly and of President Dos Santos' executive sit comfortably on the boards of other banks in which they are shareholders. The Central Bank publicly lists the current governance structures of all banks (See Annex 2). These individuals, however, are protected by corresponding acts of the president.

### **Banco Africano de Investimentos (BAI)**

Currently, BAI ranks as Angola's top bank with assets worth US \$7 billion. The operations of this bank are an example of the opacity of investments made by the national oil company Sonangol in the private sector, which often involve the illicit transfer of its shares to the private ownership by a close-knit group of influential public officials.

A 2010 U.S. Senate Report disclosed that it was investigating BAI operations in the U.S. on the grounds of suspicions that BAI may be a money-laundering vehicle for the corrupt proceeds of senior Angolan officials. The investigation revealed that three of the shareholders of BAI are engaged in blatant corruption according to Angolan law (See Annex 3). In 1997, when BAI was

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<sup>95</sup> Banco Sol, 2009:16.

<sup>96</sup> Diário da República, 2007:8103-4.

<sup>97</sup> Business documents in the author's possession detail the structure of such a scheme.

founded, Sonangol was the largest shareholder with 17.5%.<sup>98</sup> According to the report, which traces the bank's shareholding structure, Sonangol was still the largest shareholder in 1998 with 19% of the shares. By 2008, it had halved its participation to 8.5%.<sup>99</sup> Since this time, a wave of public officials has captured the partial ownership of the bank (See Annex 4). According to an official and confidential document, the process of transferring Sonangol's shares in BAI to public officials has been justified as "a mechanism to facilitate the empowerment of Angolan citizens in the development of the Angolan financial sector."

Because of international scrutiny, BAI currently secretly holds a total of 13.5% of the shares, but these are fronted by two shell companies Arcinella Assets (7%) and Sforza Properties (6.5%), respectively registered in Bahamas and British Virgin Islands. BAI's chairman José Castro Paiva, who as Sonangol London's representative is also a public official, is the ultimate owner of both companies. The bank states that such shares are being held "for various individuals."<sup>100</sup>

Regardless of its corrupt structure, BAI commands international respectability. It enjoys a joint-venture with the European Investment Bank, established by the European Union, the Norwegian Investment Fund for Developing Countries (Norfund), and the Danish International Investment Funds (IFU) in the Fund for Private Investment in Angola (FIPA).<sup>101</sup> In 2010, BAI planned to raise US \$100 million for investments.<sup>102</sup>

## ***Oil***

By law, Sonangol is the exclusive concession-holder for oil and gas in Angola. The mostly offshore and foreign-dependent production of oil often insulates authorities from the need to respond to public concerns and endows the regime with its greatest political and economic lever, both at home and abroad. Thus, as Soares de Oliveira (2007) argues, Sonangol has never been "put at the service of Angolan development," but it has instead served as the pivotal tool

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<sup>98</sup> Diário da República, 1997.

<sup>99</sup> U.S. Senate, 2010:305-8.

<sup>100</sup> In confidential documents.

<sup>101</sup> Angola Capital Partners, 2011.

<sup>102</sup> Ibid.

of President Dos Santos and his coterie to pursue their personal agendas of power and wealth.<sup>103</sup>

Western nations hungry for Angolan oil, as well as China, Portugal and Brazil, often lobby President Dos Santos' executive for their national companies to have a foothold in the country and expand their business ventures. As international calls for transparency in oil revenues have grown over the past decade, Angolan leaders now circumvent outside pressure by openly capturing shares in the oil blocks, through joint-ventures with powerful multinationals.

Because of the way joint ventures are designed in direct association with government officials, multinationals unwittingly serve as the most powerful accessories in aiding and abetting top-level corruption in the country, diplomatically backed by their national governments. As major powerhouses like the U.S. seek to protect their national interests and guarantee a stable flow of oil from Angola, they establish relationships with Angolan ruling families and perpetuate businesses enjoyed by a select few.

On January 24, 2011, for example, the Angolan national oil company, Sonangol, announced the results of a tender for eleven pre-salt oil blocks, in which Western multinationals, China-Sonangol, and Brazilian Petrobras took shares.<sup>104</sup> Although oil concessions are supposed to be awarded through tenders, in February 2010 a U.S. company named Cobalt International Energy formalized its participation in two deepwater oil blocks (9 and 21) as operator and came to hold 40% of the shares in each block, with Sonangol as the national concession holder.<sup>105</sup> As it turns out, there was no tender for such blocks, and Cobalt formed a consortium with two private phony Angolan oil companies Nazaki Oil & Gas (30%) and Alper Oil (10%). In fact Cobalt even paid for these companies' signature bonuses and expenditures in the initial work.<sup>106</sup>

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<sup>103</sup> Soares de Oliveira, 2007:606.

<sup>104</sup> Dias, Valdimiro, 2011.

<sup>105</sup> Cobalt International Energy (Block 21) et al., 2009: 33; Ibid. (Block 9), 2009:27.

<sup>106</sup> Ibid.

Nazaki Oil & Gas is a company owned in equal shares by the chairman and CEO of Sonangol, Manuel Vicente; the minister of State and head of the Military at the Presidency, General Manuel Hélder Vieira Dias “Kopelipa,” and Dias’ top lieutenant General Leopoldino Fragoso do Nascimento. According to official records, the three public officials own equal shares in 99.99% of Grupo Aquattro International, S.A which, in turn, possesses 99.96% of the shares of Nazaki Oil & Gas.

Manuel Vicente engaged in an undeniable conflict of interest by signing the agreement with Cobalt on behalf of Sonangol and by joining in the partnership as a private businessman. General Kopelipa’s closeness to the president, as well as his control of the defense and security apparatus, gives him overwhelming influence over the President who promulgated the deal. At that time, General Leopoldino Fragoso headed the president’s telecommunications department. Their use of public office to personally benefit from a deal involving the state is outright corruption under Angolan law. Cobalt’s involvement in such a private joint-venture with the aforementioned officials constitutes (under Angolan law and international conventions against corruption) acts of influence-peddling and active corruption of public officials.

Cobalt is not alone in serving as a vehicle for regime members to apportion a considerable share of the oil industry in the country for personal and illicit enrichment. The same happened in Block 2/85, operated by Chevron (20%), in which the Brazilian Petrobrás (27.50%) and Sonangol P&P (25%) are part of the consortium. Three private Angolan companies are also shareholders in the block, namely Somoil (09.30%), Poliedro (09.10%), and Kotoil (09.10%).

Other official documents, which are not referenced so as to protect the sources, enable the partial disclosure of the ownership structure of these companies. Somoil, which was established on July 5, 2000, has as its ranking shareholder the Deputy Minister of Oil, Aníbal Teixeira da Silva.<sup>107</sup> Poliedro lists among its seven shareholders the Minister of Territorial Administration, Bornito de Sousa, the administrator of the Institute for the State Business

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<sup>107</sup> Marques de Morais, 2009.

Sector<sup>108</sup> and Sebastião de Sousa e Santos Júnior. Other shareholders are former government officials or proxies, such as Ginga Isabel, the daughter of the former Minister of Oil, and Desidério Costa, who was on the job when the concession was awarded.<sup>109</sup>

Meanwhile, 33% of Kotoil's shares are divided among two MPLA MPs, Fernando França Van-Dúnem, Manuel Francisco Tuta "Batalha de Angola," and again the overseer of state enterprises, Sebastião de Sousa e Santos Júnior. This company takes extraordinary efforts to conceal 45% of the shareholding structure, while the remaining shares are equally distributed amongst a former opposition MP from Front for Democracy (FpD), João Baptista de Castro Vieira Lopes, and a medical doctor, Manuel Videira, whose wife held a senior position at Sonangol.<sup>110</sup>

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<sup>108</sup> This institute oversees the performance of public companies.

<sup>109</sup> Marques de Morais, 2009.

<sup>110</sup> Ibid.

## **V. Conclusions**

This paper highlights what Angola has been experiencing for so many years: the successful capture of the state by a crime syndicate run by President José Eduardo dos Santos and his allies. With the winds of popular uprising against longstanding authoritarian and corrupt rulers blowing towards the south of the continent as well, Angola again finds itself at the crossroads between peaceful transition to democracy and a confrontational approach. Obsessed with power and the illicit accumulation of wealth, Dos Santos' nefarious regime has masterfully destroyed the political opposition. It has also used coercion, bribery and blackmail to impair the social standing of the independent media, intellectuals, religious institutions, and organized civil society. The resulting situation is one in which a confrontation of the people against the regime becomes increasingly likely.

Corruption is the lifeblood of the regime, and foreign ventures are its main vehicle of sustainability. Thus, multinational companies must ensure that business ventures are formed in accordance with international and domestic laws, while foreign governments should make anticorruption and freedom of expression central to their foreign policies on Angola.

## Annexes

### Annex 1: Public officials who own shares in Banco Keve

Public Official	Previous Position	Current Position	Shares
Gen. Higinio Carneiro and spouse	Minister of Public Works	Deputy Chief Whip MPLA MP	9.49%
Gen. Carlos Vaal da Silva		Chief Inspector, Joint Chiefs of Staff FAA	2.57%
Gen. Manuel Hélder Vieira Dias		Minister of State, Head of the Presidency's Military Bureau	2.57%
Dumilde das Chagas Rangel	Governor of Benguela	MPLA MP	1.54%
Amaro Tati	Governor of Bié	Secretary of State of Agriculture	1.48%
Francisco Ramos da Cruz	Governor of Kwanza-Sul	MPLA MP	1.39%
António André Lopes	Vice-governor of the Angolan Central Bank (BNA)	Member of the Board of Directors of the Angolan Central Bank (BNA)	1.04%
Gen. Armando da Cruz Neto	Ambassador to Spain	Governor of Benguela	1.04%
Gen. Salviano de Jesus Sequeira		Vice-Minister of Defense	1.04%
Cristóvão Domingos da Cunha	Governor of Malanje	MPLA MP	0.99%
Paixão Júnior		Chairman of BPC, public bank	0.91%

## Annex 2: Public officials who hold positions in private banks

Public Official	Official Position	Position in Bank	Bank
Joana Lina Baptista <sup>111</sup>	Deputy Speaker of the National Assembly	Chair of the Board	Banco Sol
Júlio Bessa <sup>112</sup>	Member of Parliament, MPLA	Secretary of the Board	Banco Sol
Afonso Van-Dúnem <sup>113</sup>	Member of Parliament, MPLA	Chair of the Board	BCA
Gen. Kundi Paihama <sup>114</sup>	Minister of War Veterans	Chair of the Board	Banco de Comércio e Negócios (BANC)

<sup>111</sup> <http://www.bna.ao/artigo.aspx?c=130&a=1086>

<sup>112</sup> Ibid.

<sup>113</sup> <http://www.bna.ao/artigo.aspx?c=130&a=1075>

<sup>114</sup> <http://www.bna.ao/artigo.aspx?c=130&a=1071>

**Annex 3: Top executives [public officials] of National Oil Company Sonangol who own shares in Banco Africano de Investimentos (BAI), whose majority shareholder is Sonangol.**

Public Official	Previous Position	Current Position	Company	Shares
Manuel Vicente	Deputy to CEO of Sonangol	Chair and CEO of Sonangol	ABL	5%
José Paiva		Chair of Sonangol London	Dabas Management	5%

#### Annex 4: Public officials who own shares in Banco Africano de Investimentos (BAI)

Public Official	Previous Position	Current Position	Company	Shares
Joaquim David	CEO of Sonangol	Minister of Industry and Mining	Lobina Anstalt	5%
Norberto Marcolino		Employee of Production Directorate Sonangol		3.6%
Aguinaldo Jaime	Deputy Prime Minister	Chairman of ANIP		2.50%
Fernando Dias dos Santos	Speaker of the National Assembly	Vice-President of the Republic	Visgossol	2.50%
Júlio Bessa	Minister of Finance	MPLA MP		1.25%
Amaro Tati	Governor of Bié	Secretary of State of Agriculture		1%
Sebastião G. Martins	Chairman of Sonangol P&P	Executive Director of Sonangol Board	Gianni Janice Darling's	1%
João Lourenço	Secretary-General of MPLA, MP	Deputy-Speaker of the National Assembly		0.50%
Faustino Muteka	MPLA MP	Governor of Huambo		0.40%
Roberto de Almeida	Speaker of the National Assembly	Vice-President of MPLA and MP		0.30%

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